Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

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English only

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A set of guidelines and formats to assist a State Party, if required, when submitting an application for assistance in the framework of Article VII

Implementation of Article VII

Submitted by South Africa

I. Introduction

1. In 2014, 2015 and at the Eighth Review Conference, South Africa submitted papers containing proposals on the implementation of Article VII. The paper has continuously been refined to incorporate comments made by State Parties.

2. South Africa is re-submitting the refined proposals in this paper as a number of States Parties have indicated their support for the proposals. South Africa is willing to engage further with States Parties on the proposals contained herein.

II. Discussion

3. Article VII of the BTWC requires States Parties to "provide or support assistance, in accordance with the United Nations Charter, to any State Party to the Convention which so requests, if the Security Council decides that such a Party has been exposed to danger as a result of violation of the Convention".

Objective

4. The primary objective of Article VII is to provide assistance to a State Party that has been exposed as a result of a violation of the Convention. Therefore, the sole purpose of the assistance provided in terms of this Article should be humanitarian in nature.

5. The following can be deduced from the requirements of Article VII:

- The Article requires that the request for assistance be forwarded to the United Nations Security Council (UNSC) and the provision for assistance would be dependent on a decision by the Security Council
- The Article does not elaborate on whether that decision would be based on an investigation or the credibility of the information provided to the UNSC in the request for assistance
- Any issues related to an investigation would not be covered under this Article. Whilst it is accepted that an investigation should follow the provision for assistance, the investigation would not be invoked by this Article, but by Article VI.

State Party Options

6. A State Party should have three options to obtain assistance when it has been subjected to the alleged use of biological weapons, and should be able to utilise as many of these options as it deems necessary. The State Party may:

- Obtain assistance on a bilateral basis from other States Parties, States or International Organisations (WHO, OIE, FAO) without invoking Article VII of the Convention;
- Request assistance from other States Parties without invoking Article VII of the Convention. States Parties that are in a position to do so may provide assistance without UNSC approval. In this regard, an agreement by States Parties at the Review Conference would be required; and
- Request assistance from the UNSC in accordance with Article VII of the Convention. If the request is approved by the UNSC, States Parties would be obliged to provide assistance.

III. Application for assistance

7. While it is accepted that an investigation of alleged use should follow the provision of assistance, that should not hamper the humanitarian objective of this Article. Furthermore, an investigation of alleged use may take so long that the provision of assistance will be too late when finally approved.

Guidelines

8. Information accompanying the request for assistance would be useful to States Parties in their preparation to provide assistance, although such information should not be a prerequisite for the provision of such assistance.

9. In the case when assistance is requested from the UNSC, the information provided with the request for assistance will play a crucial role in helping the UNSC to make a prompt decision. The quicker the decision is made, the faster the provision of assistance. The requesting process followed to apply for assistance as well as the information provided to support the application is the prerogative of the State Party requiring the assistance.

10. The following information could be useful to the UNSC in making a decision:

(a) Name of the State Party.

(b) National Point of Contact of the State Party.

(c) Date and place of first reported case. If there was a related event, a description of the event. To the extent possible, the date and time, when the alleged event(s) took place and/or became apparent to the requesting State Party and, if possible, the duration of the alleged event(s).

(d) Severity of the event. Number of cases and the number of fatalities, if any.

(e) Symptoms and signs – diagnosis if possible. Information on the initial treatment and the preliminary results of the treatment of the disease.

(f) A description of the area involved.

(g) All available epidemiological information.

(h) Actions taken to manage the outbreak.

(i) International organisations already involved in the provision of assistance.

(j) States already involved in the provision of assistance.

(k) Indications of why the outbreak is considered to be the result of a biological attack.

(l) Characteristics of the agent involved, if available.

(m) Types and scope of assistance required.

(n) Indication of any investigations conducted or being conducted.

(o) Contact details for coordination of assistance if different from National Point of Contact.

(p) Licensing requirements for health care personnel and measures to address such requirements.

(q) Immigration processes for personnel and equipment for the provision of assistance.

IV. Command and control

Principle

11. The State Party remains primarily responsible for the health care of its population, hence it should be in overall control of all response activities.

Guideline on Levels of Response

12. The level of response will depend on the nature of the disease, the geographical area where the outbreak occurred, the status of the public health system of the State and the potential of international effects. Generally, it can be accepted that the health systems (human, veterinary and plant) of the State would always be the first line of response. Responses from neighbouring states, and regional and international actors would be determined by the factors listed above.

13. International organisations, particularly the World Health Organisation (WHO) and World Organisation for Animal Health (OIE) would become involved at an early stage due to their presence and their involvement with States. In most cases, assistance in accordance with Article VII would be additional to and following the assistance provided by

international organisations. The State may at any time request an international organisation (WHO, OIE) or other States to assume command on its behalf.

Licensing of Medical Personnel

14. The requesting State Party should provide temporary licenses to health care personnel upon arrival if required.

V. Laboratory samples

Guideline

15. The existing procedures for sample handling should be utilised during Article VII assistance. The State Party remains the owner of all samples collected during the provision of assistance.

VI. Conclusion

16. It is proposed that a set of guidelines be developed and maintained at the ISU to aid a State Party, if required for the application for, and implementation of assistance in case of alleged use of biological weapons against it.

17. The guidelines above could be useful in this regard. The guidelines could be updated as and when required to maintain relevance.